

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:13-cr-00183-MPM
)	
DELENORE L. McTARSNEY,)	
)	
Defendant.)	

STIPULATED FACTUAL BASIS

The United States of America, by counsel, Joseph H. Hogsett, United States Attorney for the Southern District of Indiana, and by Sharon M. Jackson, Assistant United States Attorney, and the Defendant, DELENORE L. McTARSNEY, in person and by counsel, Gwendolyn M. Beitz, hereby stipulate and agree that the following facts are true and correct and can be established beyond a reasonable doubt.

1. On or about June 13, 2012, Mark Small ["Small"], a practicing attorney in the City of Indianapolis, posted a video on YouTube, Google's Internet based video sharing site. The video was of Small ["SMALL VIDEO"], who had represented a group of Indianapolis bar owners in their lawsuit to prevent implementation of a smoking ban for commercial establishments in the City

of Indianapolis, giving a press conference on the steps of the United States Courthouse for the Southern District of Indiana.

2. YouTube, is the video sharing site of Google. Inc., and is located in California. YouTube allows individuals to create a user account, and thereafter use the YouTube account to leave comments on posted videos. As Google, Inc., and YouTube are located in California, any posts to the comment section of a video from Indianapolis, Indiana, would have traveled electronically to California.
3. Soon after the video was originally posted, an individual under the YouTube account or username "delimac59" began posting comments to the SMALL VIDEO. The general tone and content of these original postings revealed the commentator harbored a grudge against SMALL. A few postings under username delimac59 revealed that Small had once represented the user in a criminal case. Other postings, under username "hermanblurke" also reveal the same grudge against SMALL and others involved in the criminal prosecution, including then Marion County Superior Court Judge Robyn Moberly, then Commissioner Cheryl Boone, defense counsels Glen Huelskamp, Marissa McCracken, and Small and to a lesser extent former Mayor Stephen Goldsmith and deputy prosecutor Linda Aiken (now Linda Major). In several of the comments the person identifies himself as Del McTarsney and provides the home address and telephone number that belong to the defendant, Delenore McTarsney.

4. The defendant, Delenore L. McTarsney, was charged in 1996 with Criminal Recklessness and Battery and was convicted of those charges in 1998. That case, *State of Indiana vs. Delenore McTarnnsey*, cause number 49G17 9610 CM 157036 , was before then Marion County Superior Court Judge Robyn Moberly. Attorneys Glen Huelskamp and Mark Small represented McTarsney during that case. Also involved was Marion County Commissioner Cheryl Boone.
5. After the posting of the SMALL VIDEO in June 2012 and continuing through August 2013 there were 218 comments in total posted on YouTube. The overwhelming majority of these postings, over 200, were posted under the usernames delimac59 and hermanblurke.
6. The postings by the defendant under the usernames delimac59 and hermanblurke began by complaining that Small and other involved in his 1996 criminal prosecution were corrupt and conspired against McTarsney to “wrongfully” convict him. Over time the posts became increasingly violent and threatened that McTarsney would inflict bodily injury on Small, Moberly, Boone and others involved in his prior criminal case.
7. In particular, in approximately April 2013, and as charged in Count 12, the defendant posted the following comment under the username delimac59:

Mr.Mark Small! IF! IF! I do NOT MURDER YOU,PLEASE
consider yourself VERY LUCKY! I can? ONLY MURDER
two,maybe three people OR three families! I MUST decide who
is the MOST EVIL! I NEED 4 Families!

Moberly, Huelskamp, Dawson, Boone! The rest are "Gravy"! Moberly and Huelskamp are DEFINITE! They MUST be MURDERED at ANY and ALL COSTS!!! ANY!!!

8. In July 2013, Attorney Small contacted the U.S. Marshal's Service regarding the escalation of the defendant's threats as they were also directed at Judge Robyn Moberly, who had recently been appointed a federal bankruptcy judge in the Southern District of Indiana. The USMS and the FBI meet with Attorney Small regarding his concerns.
9. In the early morning hours of August 10, 2013, the defendant posted another threatening comment directed at Attorney Small.
10. After seeing this post on the morning of August 10, 2013, Attorney Mark Small contacted FBI Special Agent Steven Secor. Mr. Small was concerned over the threat contained in this and other posts made by the defendant. Additionally, Mr. Small was concerned that he was to be in Speedway, Indiana that day and knew that the defendant lived in Speedway.
11. Special Agent Secor, along with Deputy U.S. Marshals John Pappas and Robert Jackson, interviewed McTarnsney at his home address on Fair Oaks Drive in Speedway, Indiana. McTarnsney admitted that delimac59 was his user ID on YouTube and that nobody else had his YouTube password that he "knew of" and that he had likely posted the comments in question.
12. During the execution of subsequently obtained search warrants, nine hunting knives, a sword, and a compound hunting bow with metal tipped arrows were found and seized from the defendant's residence. Although no firearm was

found, the search also resulted in ammunition, a holster and other firearm paraphernalia being seized. Additionally seized was a notebook containing handwritten information regarding the location of personal residences and telephone numbers belonging to Judge Moberly, Commissioner Boone, and Attorneys Small, McCracken and Huelskamp.

Respectfully submitted,

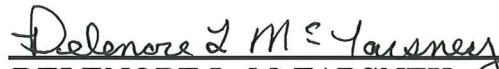
FOR THE UNITED STATES:

JOSEPH H. HOGSETT
United States Attorney

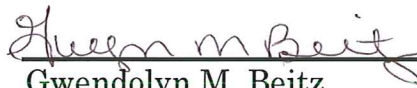

By: Sharon M. Jackson
Assistant United States Attorney

Date: 10/22/2013

FOR THE DEFENSE:


DELENORE L. McTARSNEY
Defendant

Date: Oct 22, 2013


Gwendolyn M. Beitz
Counsel for the Defendant

Date: Oct 22, 2013